

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID HAYEK,

Defendant.

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Case No. 8:17CR148

ORDER

This matter came before the Court on a Petition for Action on Conditions of Pretrial Release (#45). On November 14, 2017, Pretrial Services Officer Mike S. Sliva submitted a Petition for Action on Conditions of Pretrial Release alleging that Defendant had violated conditions of release as follows:

On November 13, 2017, the defendant's assigned pretrial services officer attempted to make contact with the defendant at his last reported address which was the Phoenix House in Columbus, Nebraska. The house manager advised that the defendant left the facility and has not resided there for several weeks. The defendant did not report his discharge from the program to his assigned officer. As of this writing, the defendant has not provided his assigned officer of a change of address. The defendant's whereabouts are presently unknown. The defendant has not provided any information to suggest that he has enrolled in outpatient treatment as directed by his assigned officer. A warrant for Defendant's arrest was issued.

Defendant appeared before the undersigned magistrate judge on November 22, 2017. Assistant Federal Public Defender, Karen M. Shanahan represented Defendant and Assistant United States Attorney, John E. Higgins represented the Government. After being advised of the nature of the allegations, rights, and the consequences if the allegations were found to be true, Defendant admitted the allegations. The Court took judicial notice of the Memorandum of Pretrial Services Officer dated November 21, 2017. The Court finds that the allegations set out in the petition are generally true and finds the Defendant violated the conditions of release.

After providing both parties an opportunity for allocution as to disposition and considering the report of Pretrial Services, I find the Order Setting Conditions of Release (#35) should be revoked. I find Defendant is unlikely to abide by conditions of release. I find that there is no condition or combinations of conditions that would reasonably assure Defendant's presence for further proceedings, or the safety of the community if Defendant were to be released upon conditions.

IT IS ORDERED:

1. The Petition for Action on Conditions of Pretrial Release (#45) is granted;
2. The Order Setting Conditions of Release (#35) is hereby revoked; and
3. Defendant is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility separate, to the extent practicable, from persons awaiting or serving sentence or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of the Court of the United States or on the request of an attorney for the Government, the person in charge of the correctional facility shall deliver Defendant to the United States Marshal for purpose of an appearance in connection with a court proceeding.

Dated this 22nd day of November, 2017.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge